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UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS,

PLAINTIFF

VS.

Case 3:21-cv-04184-JSW

KARL POLANO, et al

DEFENDANTS

MOTION TO STRIKE [129] MOTION TO DISMISS

Comes now, pro se Plaintiff David Stebbins, who hereby submits the following Motion to Strike **Dkt. 129**, the corporate defendants' Motion to Dismiss.

1. Moments before the individual defendants' filed their Motion to Dismiss, I filed a Notice of Voluntary Dismissal in the above-styled action. See **Dkt. 128**. This renders moot the corporate defendants' motion.
2. The motion was filed before the corporate defendants had filed their answer or motion for summary judgment. Therefore, pursuant to FRCP 41(a)(1)(A)(i), the dismissal is automatic. The Court has no discretion to refuse it. See *Commercial Space Management Co. v. Boeing Co.*, 193 F. 3d 1074, 1076 (9th Cir. 1999) ("a Rule 41(a)(1) dismissal, once filed, automatically terminates the action, and thus federal jurisdiction, without judicial involvement").
3. Therefore, the Motion to Dismiss should be struck, and its contents should not be considered moving forward.

/s/ David Stebbins
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